

notice, Lessee's right to possession of the Premises shall cease, and Lessee shall quit and surrender the Premises to Lessor and this Lease shall terminate as of such termination date, subject, however, to Lessee's right to remove the Tower and Building as provided in paragraph 10, above.

15.2 Lessor shall also have any and all other rights and remedies as may be provided in law or equity in the event Lessee defaults hereunder and fails to cure such default within the applicable grace period provided for in paragraph 15.1.

15.3 In the event Lessor defaults in any of its covenants and obligations hereunder, Lessee shall provide Lessor with notice thereof, and Lessor shall have a reasonable time under the circumstances to cure such default. If Lessor fails to cure such default, Lessee shall have any and all rights and remedies available to it as may be provided in law or equity.

#### 16. TERMINATION BY LESSEE

This Lease may be terminated by Lessee without any penalty or further liability, upon ninety (90) days written notice to Lessor upon the occurrence of any of the following: (a) Lessee is unable to maintain any Permit as described in paragraph 4.2; or (b) the Property, the Tower or the Premises is or becomes unacceptable under the Lessee's design or engineering specifications for Lessee's tower facilities or communications systems; or (c) Lessee determines that the Premises are not appropriate for Lessee's operations for economic reasons; or (d) Lessee's license to operate is revoked, removed or suspended; or (e) the Improvements, the Tower, or any material portion thereof are destroyed by fire or other casualty.

#### 17. CONDEMNATION

If a condemning authority takes all of the Premises or the Property, or a portion sufficient in Lessee's determination, to render the Premises or Tower unsuitable for the use which Lessee was then making thereof, this Lease shall terminate and be of no further force or effect as of the date the title vests in the condemning authority. The parties shall be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Premises. Sale of all or part of the Property to a purchaser with the power of eminent domain under the threat of condemnation shall be treated as a taking by condemnation under this Article.

#### 18. ASSIGNMENT

18.1 Lessor may assign this Lease upon written notice to Lessee and said assignee will be responsible to Lessee for the performance of all the terms and conditions of this Lease.

18.2 Lessor agrees that Lessee may assign all rights, benefits, duties and obligations under this Lease by giving Lessor written notice. If such assignment is made, Lessee shall be relieved of all future liabilities hereunder and Lessor shall look solely to such assignee for the performance of this Lease after assignment.

18.3 Lessee shall have the right to grant licenses to others to use the Improvements and to use and enjoy the rights and easements herein granted to Lessee.

## 19. RIGHTS OF FIRST NEGOTIATION AND REFUSAL

19.1 Lessor hereby grants to Lessee a right of first negotiation and a right of first refusal during the term of this Lease or any renewal or extension thereof in accordance with the terms set forth below.

19.2 In the event that Lessor determines to market the Property, or any larger parcel of which the Property is an undivided part (either being hereinafter referred to the "Parcel") for sale, it shall first give notice thereof to Lessee and give to Lessee the right and opportunity to purchase the Parcel, on terms substantially the same as Lessor intends to offer the Parcel, which terms shall be specified in the notice. If Lessee does not agree to purchase the Parcel on such terms within thirty (30) days of receipt of such notice, then Lessor shall be free to market the Parcel.

19.3 If thereafter Lessor receives a bona fide offer from a third party to purchase the Parcel which Lessor intends to accept, it shall give notice of the terms and conditions of such offer to Lessee. Lessee shall then have fifteen (15) days after receipt of such notice to elect to purchase the Parcel upon the same terms and conditions as Lessor intends to accept. Should Lessee decline to purchase the Parcel or fail to respond to Lessor's notice, Lessor shall be free to consummate the sale upon the noticed terms and conditions; provided, however, that if a sale upon such terms and conditions is not consummated through passing of title within ninety (90) days after Lessor's notice to Lessee, or if any of the terms and conditions of the actual contract of sale are materially different from those set forth in the noticed offer, then this right of first refusal shall revive.

## 20. MEMORANDUM OF LEASE

Upon request, Lessor agrees to execute a memorandum of this Lease in recordable form which Lessee may record in the recording office of the County in which the Property is located.

## 21. MISCELLANEOUS

21.1 Entire Agreement. This Lease contains all agreements, promises and understandings between the Lessor and Lessee. No verbal or oral agreements, promises or understandings shall be binding upon either the Lessor or Lessee in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Lease shall be void and ineffective unless made in writing signed by the parties.

21.2 Governing Law. This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of New Jersey.

21.3 Notices. All notices hereunder, in order to be effective, must be in writing, and shall be given by either certified mail, return receipt requested, or by nationally recognized overnight courier service, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To Lessor: At the address set forth on the front page of this Lease.

To Lessee: At the address set forth on the first page of this Lease.

with a copy to: Comcast Corporation  
1234 Market Street  
Philadelphia, PA 19107-3723

Attention: General Counsel

21.4 Lien. Lessor hereby waives any statutory landlord's lien that it may have respecting the Improvements.

21.5 Estoppel. Either party shall, from time to time, on not less than ten (10) days' prior written request by the other, execute, acknowledge and deliver a written statement certifying that this Lease is unmodified and in full force and effect, or that the Lease is in full force and effect as modified and listing the instruments of modification; the dates to which rentals have been paid; and whether or not to the best knowledge of the party delivering the estoppel the other party is in default hereunder, and if so, specifying the nature of the default. It is intended that any such statement may be relied upon by the requesting party's prospective purchaser, mortgagee, subtenant or assignee.

21.6 Legal Fees. The prevailing party in any litigation arising hereunder shall be entitled to recover its reasonable attorney's fees and court costs, including appeals, if any.

21.7 Waiver. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.

21.8 Heirs, Successors. This Lease shall be binding upon the parties hereto, their respective heirs, executors, administrators, successors in interest, successors in title and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be duly executed as of the date first above written.

Witness or Attest:

Lessor:

David G. Gillen

By: 

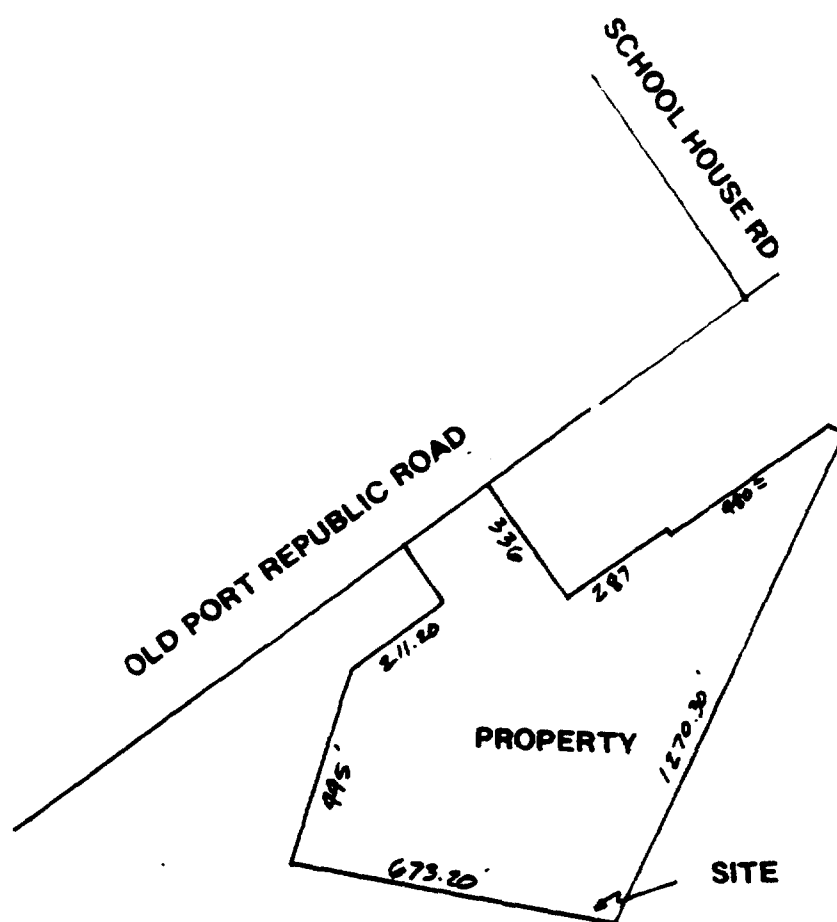
ELLIS THOMPSON CORPORATION  
Lessee

By: 

Pres.

LEGAL: BLOCK 1171 LOT 22.01

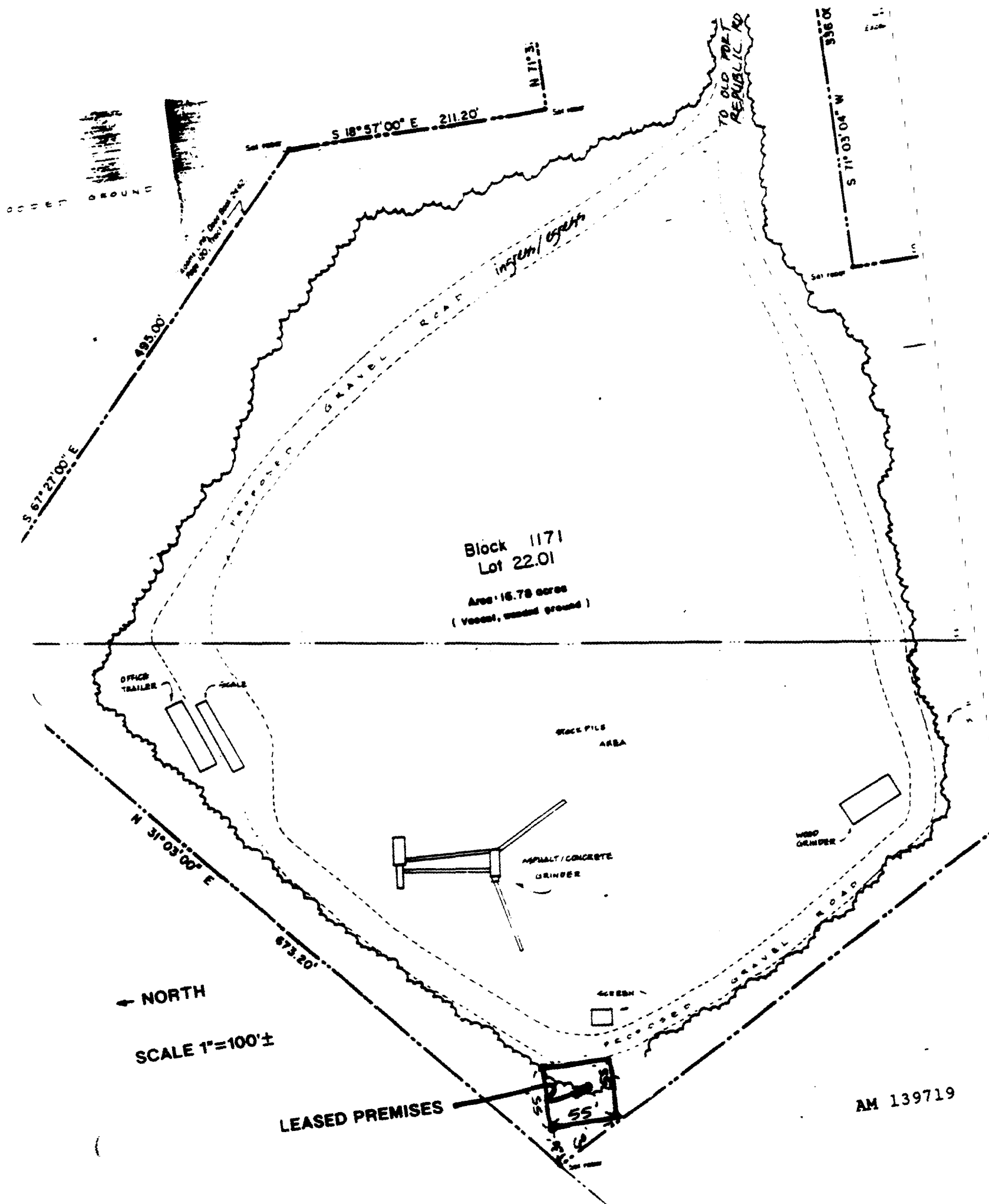
GALLOWAY TOWNSHIP, NEW JERSEY



← NORTH

SCALE 1"=400'±

EXHIBIT B



← NORTH

SCALE 1"=100'±

LEASED PREMISES

AM 139719

21.7 Waiver. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.

21.8 Heirs, Successors. This Lease shall be binding upon the parties hereto, their respective heirs, executors, administrators, successors in interest, successors in title and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be duly executed as of the date first above written.

Witness or Attest:

Lessor:

David Guillen

By:

Robert A. Morris  
Elizabeth J. Morris

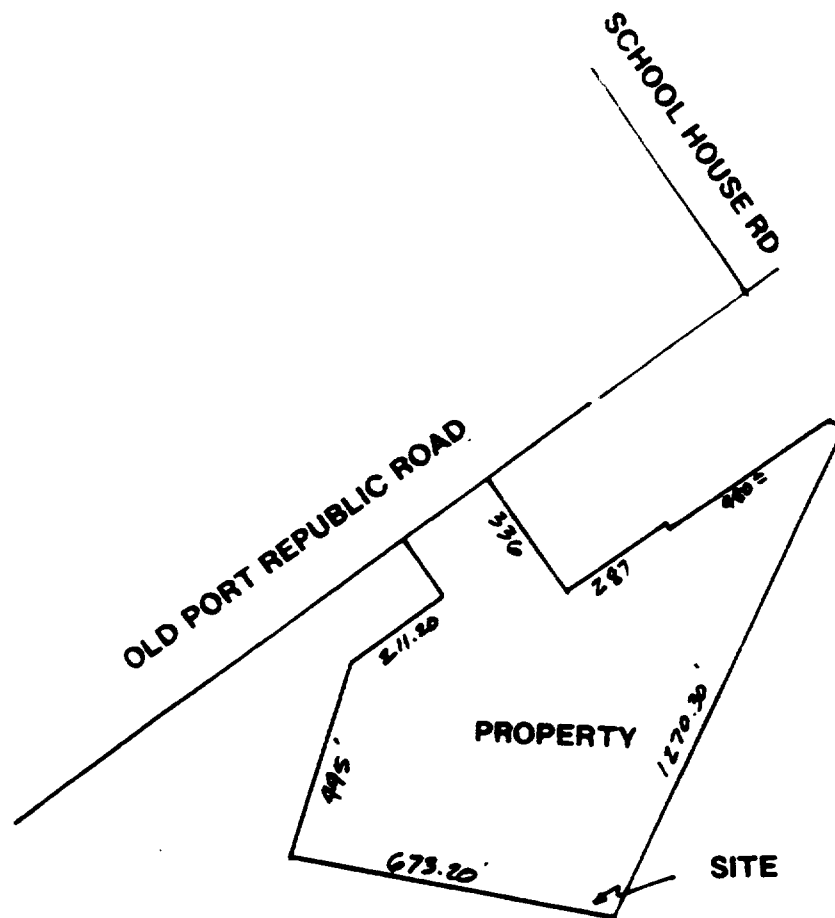
ELLIS THOMPSON CORPORATION  
Lessee

By:

Ellis Thompson  
Pres.

LEGAL: BLOCK 1171 LOT 22.01

GALLOWAY TOWNSHIP, NEW JERSEY

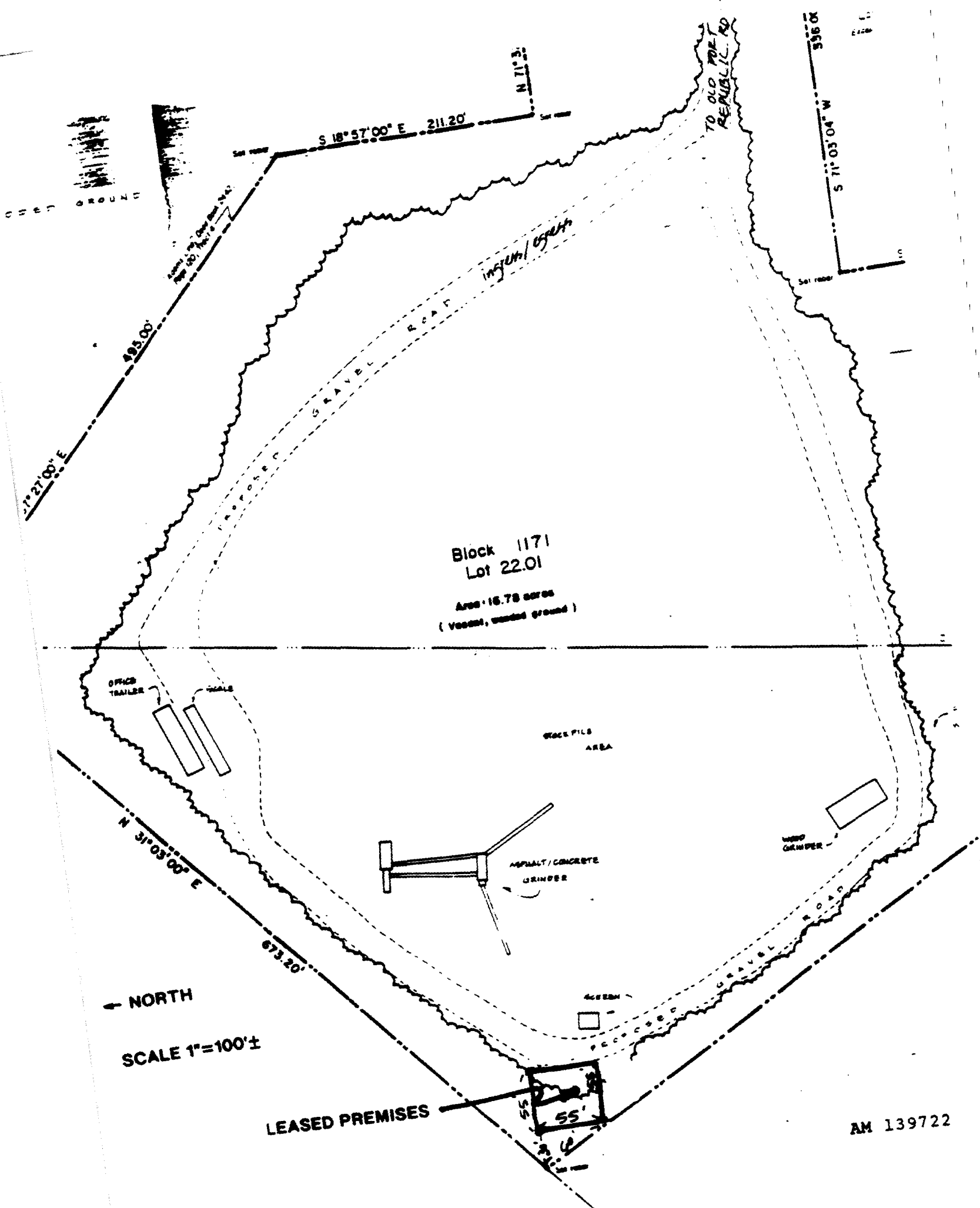


← NORTH

SCALE 1"=400'±



EXHIBIT B



AM 139722

Tuckahoe 64

ORIGINAL

COMMUNICATIONS SITE LEASE AGREEMENT

THIS LEASE AGREEMENT made as of this 15<sup>th</sup> day of August, 1994 by and between the TOWNSHIP OF UPPER, a body politic and corporate having an address c/o Township Clerk, Township Hall, Tuckahoe, New Jersey 08250 ("LESSOR"), and ELLIS THOMPSON CORPORATION, an Oregon corporation with a place of business at 480 E. Swedesford Road, Wayne, Pennsylvania 19087 ("LESSEE").

W I T N E S S E T H:

WHEREAS:

A. Lessor is the owner in fee simple of certain real property located in the Township of Upper, County of Cape May and State of New Jersey, as more particularly described on Exhibit A, attached hereto and made a part hereof (the "Property"); and

B. Lessee desires to lease a portion of the Property from Lessor and to construct thereon a communications tower and a modular telecommunications building, all as depicted on Exhibit B attached hereto and incorporated herein by reference; and

C. Lessor and Lessee desire to enter into this Lease upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. DEMISE

1.1 Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that portion of the Property more particularly described on Exhibit B (the "Premises") attached hereto and made a part hereof and grants to Lessee the right to construct thereon a modular telecommunications equipment building (the "Building") and a lattice tower one hundred eighty (180) feet in height (the "Tower"), all upon the terms and conditions herein contained.

1.2 Lessee shall have the right, at its own cost and expense, to survey the Premises. If such survey reveals any discrepancies with Exhibit B, the survey shall control and this Lease shall be amended accordingly.

1.3 Lessor hereby grants to Lessee a nonexclusive easement during the Term (as hereinafter defined) for ingress and egress to the Premises upon and across the Property and the adjacent properties, if any, of Lessor, including all roads and drives located or to be located thereon, for the movement of men, machinery, vehicles and equipment for the purpose of constructing, operating, repairing and maintaining the Tower and the Building. Such access for operation, repair and maintenance

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shall be on a 24-hour a day, 365 days a year basis. Lessee shall also have the right in common with others to use any parking spaces, roads and driveways located on the Property which are nearby the Premises. Lessor agrees that Lessor shall not have access to the Premises at any time during the Term (hereinafter defined), other than for the purpose of maintaining, repairing and/or replacing Lessor's Equipment (hereinafter defined).

1.4 During the Term, Lessee shall also have the right to use the Property and the adjacent properties of Lessor, if any, for providing electric, telephone, water, sewer and other utility services to the Premises, all of which services are to be connected, installed and maintained by Lessee at Lessee's sole cost and expense. Lessor hereby agrees to execute and deliver whatever easements may be necessary to the utility companies providing such service.

1.5 It is acknowledged that the Premises forms a part of the property commonly known as the "Public Works Yard" of the Township of Upper. The Premises may be suitably fenced by Lessee, at Lessee's expense, and Lessee shall have the exclusive use and enjoyment of the Premises. Lessee's rights of ingress and egress and other rights over the Property and any other property of Lessor shall be as set forth in this Lease.

## **2. TERM AND RENEWALS**

2.1 The original term of this Lease (the "Original Term") shall be for five (5) years. The Original Term shall commence on the first day of the calendar month following commencement of construction by Lessee of the Improvements, provided that a certificate of occupancy, if required by applicable law, has been issued for the Premises.

2.2 Lessee shall have the option to renew the Original Term for three (3) additional five (5) year terms (each a "Renewal Term" and, collectively, the "Renewal Terms"), upon the same terms and conditions set forth herein, except for the adjustment to rental which is described in paragraph 3.2 below. The Original Term, as extended by the Renewal Terms, is herein referred to as the "Term". This Lease shall automatically be renewed for each successive Renewal Term, unless Lessee shall notify Lessor of Lessee's intent not to renew this Lease no later than ninety (90) days prior to the expiration of the then current term. Absent such notice by Lessee, the Term shall automatically renew without the necessity of any notice from Lessee to Lessor.

## **3. RENTAL**

3.1 The annual base rental for the Original Term shall be the sum of Twelve Thousand Dollars (\$12,000.00).

3.2 The annual base rental for each year of the Renewal Terms shall be as follows:

The annual base rental during each Renewal Term shall be equal to the annual base rental payable hereunder during the immediately preceding five-year term increased by the lesser of (a) the percentage increase which occurred in the Index between the first and last months of such preceding term and (b) twenty-five percent (25%), but in no event less than \$1,200.00. The Index shall be the Consumer Price Index - All Urban Consumers (CPI-U) (All Items) for Philadelphia-Wilmington-Trenton, PA-DE-NJ-MD, published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index of computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised. Lessor shall notify Lessee in writing of the annual base rent for each Renewal Term, showing the calculation thereof. Until Lessee receives such notice, Lessee shall continue to pay annual base rent at the rate for the previous term. Beginning with the next due monthly installment of annual base rent after Lessee's receipt of such notice, Lessee shall pay annual base rent at the new rate. Lessee shall include in its first payment of annual base rent at the new rate the amount of any deficiency resulting from its payment of monthly installments of annual base rent for the current Renewal Term at the rate for the previous term.

3.3 All rental payments for the Original Term and Renewal Terms shall be made in equal monthly installments, in advance, on the first day of each calendar month.

3.4 As additional rent, Lessee shall pay to Lessor any and all increases in real estate taxes with respect to the Property which are directly attributable to the Improvements placed on the Property by Lessee. As a condition precedent to its right to receive such payment, Lessor agrees to promptly furnish proof of any such increases to Lessee including true copies of the real property tax bills rendered to Lessor. Lessee shall have the right to appeal any such taxes in its own name or that of Lessor.

#### 4. USE

4.1 Lessee shall have the right to use the Premises for the purpose of constructing, installing, maintaining and operating a communications facility together with other uses involving the transmission and/or receiving of radio and microwave signals and uses incidental thereto, or for any other use as may be permitted by applicable law.

4.2 Lessee may construct on the Premises at Lessee's sole cost and expense the Tower, with cellular antennas and microwave dishes thereon and appurtenances, the Building and appurtenant facilities, signs, and perimeter chain link or similar security fence, all in accordance with applicable laws. All of the foregoing are sometimes herein collectively referred to as the

"Improvements". Lessee shall be solely responsible for obtaining all Federal, State, County and local approvals, licenses, resolutions, variances, zoning permits, certificates, including but not limited to a certificate of occupancy, if necessary, and such other permits (collectively the "Permits") as are necessary to construct, operate and maintain the Improvements.

4.3 Lessee shall, at its own expense, maintain the Improvements, other than Lessor's Equipment, in a safe condition, in good order and repair.

4.4 Lessee agrees that it shall, at the request of Lessor, and at Lessee's sole cost and expense, relocate Lessor's existing radio antennae presently located on one or more towers in the Public Works Yard ("Lessor's Equipment") to the Tower and Lessee further agrees to permit Lessor's Equipment to remain on the Tower without cost or expense to Lessor, except as set forth herein.

## **5. CONTINGENCIES FOR THE BENEFIT OF LESSEE**

5.1 Commencement of the Term is conditioned and contingent upon Lessee's obtaining all Permits after the execution of this Lease, as well as, but not limited to, satisfactory soil boring and engineering tests, which will permit Lessee to use the Premises and Tower as above described. Lessor hereby grants Lessee permission to commence such tests. Such permission shall be effective upon the execution of this Lease, and does not constitute commencement of construction.

5.2 Lessor shall fully cooperate with Lessee in its effort to obtain the Permits, including but not limited to joining in the execution of any applications or documents as may be necessary in such regard. The costs shall be borne by Lessee exclusive of the time spent by Lessor in assisting with this process. Lessor shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by Lessee. In the event that any of the applications for the Permits shall be finally rejected or denied or the soil boring or engineering tests are found to be unsatisfactory such that Lessee determines in its sole discretion that the Premises is unusable for its intended purposes, then Lessee shall have the right to terminate this Lease upon notice to Lessor, whereupon there shall be no further liability to either party, except that any prepaid rentals shall be immediately returned to Lessee.

5.3 Prior to the commencement of the Term, Lessee shall have the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of Lessee's choice. If in the opinion of Lessee, such title report shows any defects of title or any liens or encumbrances which would adversely affect Lessee's use of the Premises or Lessee's ability to obtain leasehold financing, Lessee shall have the right to cancel this Lease upon written notice to Lessor, whereupon there

shall be no further liability to either party, except that any prepaid rentals shall be immediately returned to Lessee.

## **6. TAXES**

6.1 Lessor shall pay all real property taxes assessed upon the Property.

6.2 Lessee shall pay all personal property taxes assessed upon the Improvements, other than Lessor's Equipment, as well as any increase in real property taxes as described in paragraph 3.4, above.

## **7. INSURANCE**

7.1 Lessor and Lessee shall each obtain and keep in effect throughout the Term, an insurance policy or policies, providing general public liability insurance against claims for personal injury (including death) and property damage in a blanket amount of not less than \$3,000,000 per occurrence. Lessee shall also maintain fire and extended coverage insurance on the Building.

7.2 At the request of either party, the such party shall be named as an additional insured on the other party's liability policy. If requested by the other party, but not more than annually, each party shall provide the other with evidence that the insurance required by paragraph 7.1 is in effect.

7.3 Neither party shall be liable to the other for any loss or damage caused by fire or any of the risks enumerated in a "causes of loss special" insurance policy with an extended coverage endorsement.

## **8. REPAIR AND MAINTENANCE**

8.1 Lessor shall keep and maintain the Property and Lessor's Equipment in good order and repair. Lessor shall be responsible for snow and ice removal from the Property.

8.2 Lessee shall keep and maintain the Premises and the Improvements, other than Lessor's Equipment, in good order and repair.

## **9. UTILITIES**

9.1 Lessee shall be responsible at its sole cost and expense for bringing utilities to the Building and causing an electric meter to be installed. Lessor shall be responsible for the installation of a separate meter for Lessor's Equipment.

9.2 Lessee shall pay for all electricity used at the Premises by Lessee, as well as for the power needed to operate the Improvements, other than Lessor's Equipment. All other

utility services shall be furnished by and at the sole cost and expense of Lessor.

#### **10. REMOVAL OF TOWER AND EQUIPMENT; SURRENDER**

10.1 It is expressly acknowledged and agreed that the Tower and the Building are and shall remain the personal property of Lessee, removable and replaceable at any time and from time to time by Lessee, notwithstanding any physical annexation thereof to the Premises.

10.2 At the expiration or earlier termination of the Term, Lessee shall remove the Building and, at Lessee's election, either (a) remove the Tower, or (b) offer to convey the Tower to Lessor without warranty, of any kind, for \$1.00. If Lessor elects not to purchase the Tower, Lessee shall remove it at Lessee's sole cost and expense. Subject to the terms of this paragraph 10.2, upon termination or expiration of this Lease, Lessee shall surrender the Premises to Lessor in the condition in which it presently is except for reasonable wear and tear, and damage by fire or other casualty. If Lessee remains on the Property after termination of this Lease, Lessee shall be deemed to be a month-to-month tenant and shall pay rent at the then existing monthly rate, until such time as the removal of the Tower, if applicable, and the equipment is completed.

10.3 In the event of the removal of the Tower by Lessee, Lessee agrees, at Lessee's sole cost and expense for the benefit of Lessor, to (i) install a replacement tower (the "Replacement Tower"), which is similar to the existing tower or towers which Lessor is using as of the commencement of this Lease and (ii) relocate Lessor's Equipment from the Tower to the Replacement Tower, also at Lessee's sole cost and expense. By this paragraph, it is the express intention of the parties that in the event of a removal of the Tower, that Lessor's use of Lessor's Equipment will be restored to the same condition as it enjoyed at the commencement of the term of this Lease and that such restoration will be accomplished at the cost of Lessee and without any cost to Lessor.

#### **11. QUIET ENJOYMENT**

11.1 Lessor covenants, represents and agrees that Lessor is the owner of the Property free and clear of all liens and encumbrances, and has the full right, power and authority to enter into, execute and deliver this Lease. Further, if applicable, the undersigned individuals represent that they are corporate officers or partners of Lessor, as applicable, and have the right, power and authority to bind Lessor.

11.2 Lessor covenants and agrees that Lessee, on paying the rent and performing the conditions and covenants herein, shall and may peaceably and quietly have, hold and enjoy the Premises and the rights herein granted for the Term.

## **12. MANAGEMENT OF SITE ENGINEERING**

12.1 Lessor agrees to eliminate, without cost to Lessee, any interference to Lessee's operation caused by Lessor or anyone holding under Lessor in a timely manner after oral notice thereof. If such interference cannot be eliminated within a reasonable length of time, after oral notice thereof, Lessor shall cease or shall require the party causing the interference to cease using the equipment which is causing the interference except for short tests necessary for the elimination of the interference.

12.2 Lessee agrees not to interfere with radio transmission or reception equipment properly located on the Property, provided that such equipment is actually in place as of the date of this Lease. If Lessee should cause such measurable interference, Lessee shall eliminate it in a timely manner. Lessee agrees to include the provisions of this paragraph 12.2 in all future leases for users of the Tower.

12.3 Lessor agrees not to erect any structure within or on the Property or other property owned by Lessor which will interfere with the operation of the Improvements.

12.4 If the interference with Lessee's operation is not promptly resolved, Lessee shall have all rights at law or in equity, including but not limited to the right to terminate this Lease upon thirty (30) days notice to Lessor.

## **13. COMPLIANCE WITH LAWS**

13.1 Lessee covenants and agrees to comply with all applicable governmental laws, rules, regulations and orders respecting the Improvements, other than Lessor's Equipment, and its use thereof, including, but not limited to, those of the Federal Communications Commission (the "FCC"), the New Jersey Department of Environmental Protection and Energy (the "DEPE") and the United States Environmental Protection Agency (the "EPA").

13.2 Lessor covenants and agrees to comply with all applicable governmental laws, rules, regulations and orders respecting the Property and Lessor's Equipment, including, but not limited to, those of the FCC, the DEPE and the EPA. Lessor represents that the Property and Lessor's Equipment are presently in compliance with all such laws, rules, regulations and orders.

13.3 Lessor and Lessee each hereby covenant and agree to indemnify and save the other harmless from and against any and all loss and damage that the other may suffer or sustain as a result of a breach of the covenants or representations set forth in this Article 13.



#### 14. INDEMNIFICATION

14.1 Lessee hereby agrees to indemnify and hold Lessor harmless from and against any claim or liability or loss from personal injury or property damage resulting from or arising out of the use of the Premises and the Improvements, other than Lessor's Equipment, by Lessee, its servants, agents or invitees, and the installation, use, maintenance, repair or removal of the Tower by Lessee and such persons acting on its behalf, excepting, however, such claims, liabilities or damages as may be due to or caused by the acts of Lessor, or its servants, agents or invitees.

14.2 Lessor hereby agrees to indemnify and hold Lessee harmless from and against any claim or liability or loss from personal injury or property damage resulting from or arising out of the use of the Property (excluding the Premises) and the Tower, by Lessor, its servants, agents or invitees, and such persons acting on its behalf, excepting, however, such claims, liabilities or damages as may be due to or caused by the acts of Lessee, or its servants, agents or invitees.

#### 15. DEFAULT

15.1 If Lessee defaults in the payment of base rent, or any additional rent, or defaults in the performance of any other covenants or conditions herein contained, Lessor may give written notice of such default, and if Lessee does not cure any rent default within thirty (30) days of such notice or within sixty (60) days of such notice of nonmonetary default (or if such nonmonetary default is of a nature that it cannot be completely cured within sixty (60) days, if Lessee does not commence remedial action within such sixty (60) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than fifteen (15) days written notice to Lessee, and on the date specified in said notice, Lessee's right to possession of the Premises shall cease, and Lessee shall quit and surrender the Premises to Lessor and this Lease shall terminate as of such termination date, subject, however, to Lessee's right to remove the Tower and the Building as provided in paragraph 10.2, above.

15.2 Lessor shall also have any and all other rights and remedies as may be provided in law or equity in the event Lessee defaults hereunder and fails to cure such default within the applicable grace period provided for in paragraph 15.1.

15.3 In the event Lessor defaults in any of its covenants and obligations hereunder, Lessee shall provide Lessor with notice thereof, and Lessor shall have a reasonable time under the circumstances to cure such default. If Lessor fails to cure such default, Lessee shall have any and all rights and remedies available to it as may be provided in law or equity.

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#### **16. TERMINATION OF LEASE BY LESSEE**

This Lease may be terminated by Lessee at any time during the term of this Lease or any renewals thereof, without any penalty or further liability, upon thirty (30) days written notice to Lessor upon the occurrence of any of the following:

(a) Lessee is unable to obtain or maintain any Permit as described in paragraph 4.2; or (b) the Property, the Tower or the Premises is or becomes unacceptable under the Lessee's design or engineering specifications for Lessee's tower facilities or communications systems; or (c) Lessee determines that the Premises is not appropriate for Lessee's operations for economic reasons; or (d) Lessee's license to operate is revoked, removed or suspended; or (e) the Improvements, the Tower, or any material portion thereof, is damaged or destroyed by fire or other casualty; or (f) any governmental entity having jurisdiction determines that a change in the location of the Tower is required (notice of which proceeding or matter shall be promptly given by Lessor or Lessee to the other).

#### **17. CONDEMNATION**

If a condemning authority takes all of the Premises or the Property, or a portion sufficient in Lessee's determination to render the Premises or Tower unsuitable for the use which Lessee was then making thereof, this Lease shall terminate and be of no further force or effect as of the date the title vests in the condemning authority. The parties shall be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Premises. Sale of all or part of the Property to a purchaser with the power of eminent domain under the threat of condemnation shall be treated as a taking by condemnation under this paragraph.

#### **18. ASSIGNMENT**

18.1 Lessor may assign this Lease upon written notice to Lessee and said assignee will be responsible to Lessee for the performance of all the terms and conditions of this Lease.

18.2 Lessor agrees that Lessee may assign all rights, benefits, duties and obligations under this Lease by giving Lessor written notice. If such assignment is made, Lessee shall be relieved of all future liabilities hereunder and Lessor shall look solely to such assignee for the performance of this Lease after assignment.

18.3 Lessee shall have the right to grant licenses to others to use the Improvements and to use and enjoy the rights and easements herein granted to Lessee.

#### **19. [INTENTIONALLY DELETED]**

20. MEMORANDUM OF LEASE

Upon request, Lessor agrees to execute a memorandum of this Lease in recordable form which Lessee may record in the recording office of the County in which the Property is located.

21. MISCELLANEOUS

21.1 Entire Agreement. This Lease contains all agreements, promises and understandings between Lessor and Lessee. No verbal or oral agreements, promises or understandings shall be binding upon either Lessor or Lessee in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Lease shall be void and ineffective unless made in writing signed by the parties.

21.2 Governing Law. This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of New Jersey.

21.3 Notices. All notices hereunder, in order to be effective, must be in writing (unless otherwise expressly provided for herein), and shall be given by either certified mail, return receipt requested, or by nationally recognized overnight courier service, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To Lessor:                   c/o Township Clerk  
Township Hall  
Tuckahoe, New Jersey 08250

To Lessee:                   480 E. Swedesford Road  
Wayne, Pennsylvania 19087  
Attention: Vice President of  
Engineering

with a copy to:           Comcast Corporation  
480 East Swedesford Road  
Wayne, PA 19087  
Attention: General Counsel

21.4 Lien. Lessor hereby waives any statutory landlord's lien that it may have respecting the Improvements.

21.5 Estoppel. Either party shall, from time to time, on not less than ten (10) days' prior written request by the other, execute, acknowledge and deliver a written statement certifying that this Lease is unmodified and in full force and effect, or that the Lease is in full force and effect as modified and listing the instruments of modification; the dates to which rentals have been paid; and whether or not to the best knowledge of the party delivering the estoppel the other party is in default hereunder, and if so, specifying the nature of the

default. It is intended that any such statement may be relied upon by the requesting party's prospective purchaser, mortgagee, subtenant or assignee.

21.6 Subordination and Nondisturbance. Lessee agrees that this Lease shall be subordinated to any mortgage or deed of trust now or hereafter in force encumbering the Premises. Lessor shall, as an express condition to Lessee's agreement to subordinate this Lease to any mortgage or other encumbrance hereafter placed upon the Property, obtain a nondisturbance agreement, in recordable form, executed by Lessor and by the holder of such mortgage or other encumbrance providing that the holder of such mortgage or other encumbrance shall not disturb Lessee's possession under this Lease in the event of foreclosure, transfer in lieu thereof, or other enforcement proceedings, provided that Lessee shall not be in default hereunder. Lessor shall use its best efforts to obtain, within thirty (30) days after the execution of this Lease by Lessee, a nondisturbance agreement, in recordable form, containing the aforesaid provisions and executed by Lessor and by the holders of any existing mortgages.

21.7 Legal Fees. The prevailing party in any litigation arising hereunder shall be entitled to recover its reasonable attorneys' fees and court costs, including appeals, if any.

21.8 Waiver. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.

21.9 Heirs, Successors. This Lease shall be binding upon the parties hereto, their respective heirs, executors,

administrators, successors in interest, successors in title and assigns.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Lease Agreement to be duly executed as of the date first above written.

Lessor:

TOWNSHIP OF UPPER, a body politic and corporate

*Barbara A. Long*  
*Municipal Clerk*

By: *[Signature]*

Name:

Title: *Mayor*

Lessee:

ELLIS THOMPSON CORPORATION, an Oregon corporation

By: *[Signature]*

Name:

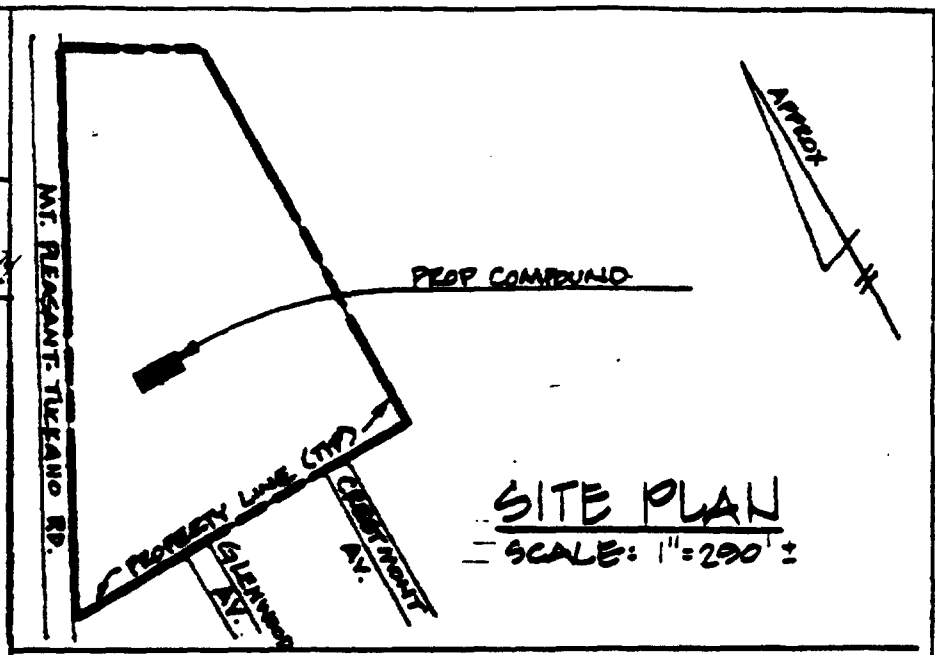
(Vice) President

AM 139734

APPROVED BY:

METROPHONE: \_\_\_\_\_ DATE: \_\_\_\_\_

LESSOR: MTA DATE: 6/29/94



### COMPOUND DETAIL

SCALE: 1" = 40'

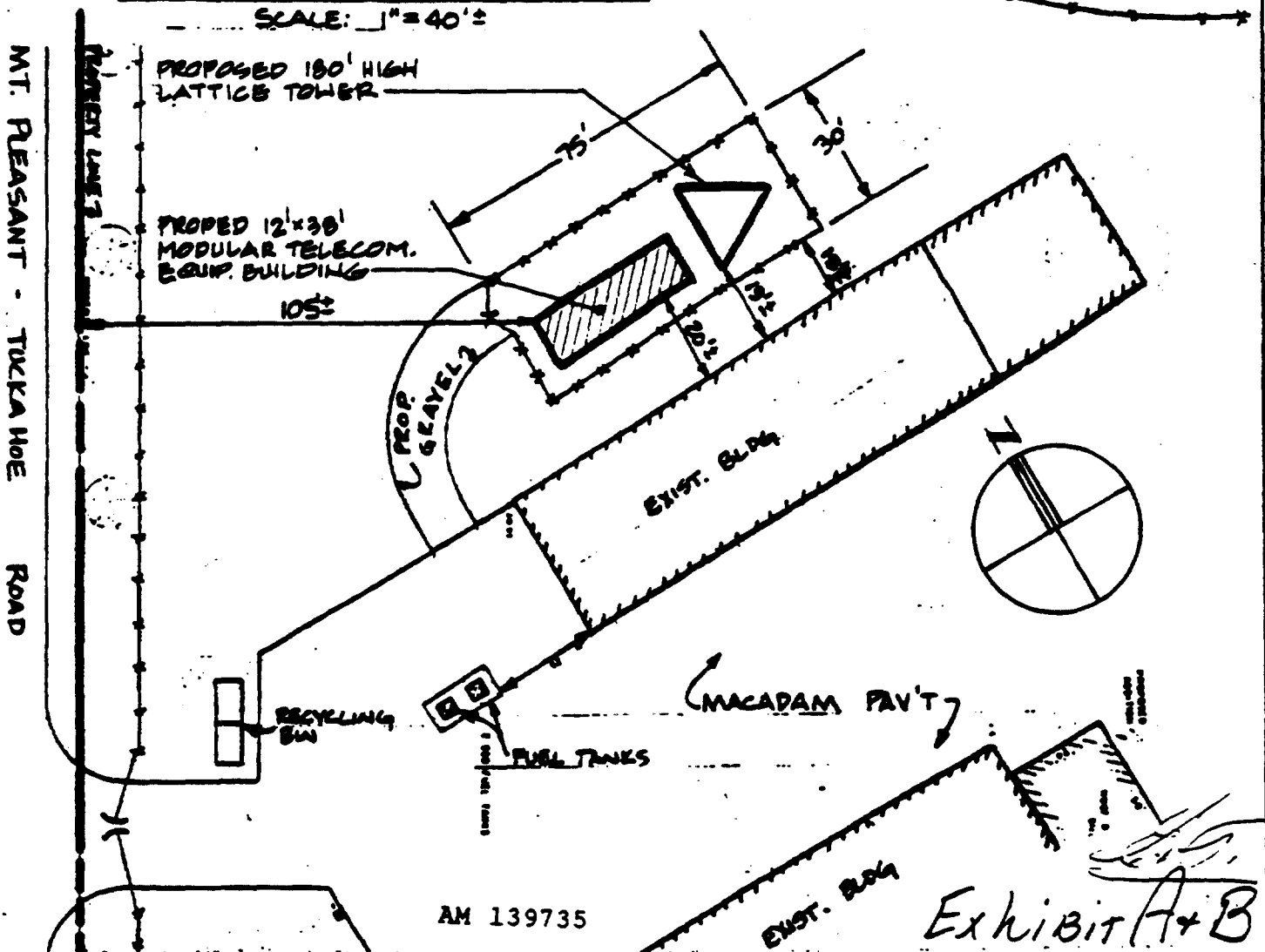


Exhibit A+B



Juengert  
Grutzmacher  
Harkness, P.A.

ARCHITECTURE  
PLANNING  
INTERIORS

PROJECT TITLE

LEASE EXHIBIT

PROJECT #  
04494-010A

DATE  
1-25-94

COMCAST METROPHONE

SITE NAME  
TUCKAHOE  
ADDRESS  
MT. PLEASANT AND  
TUCKAHOE ROAD  
TWP. OF UPPER, NJ

AC#14 Rio Grande

Final Draft: 10/21/88

#### TOWER LICENSE AGREEMENT

THIS LICENSE has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 1988, between LIGHTHOUSE BROADCASTING COMPANY, a Delaware Corporation, hereinafter known as "LICENSOR", and ELLIS THOMPSON CORPORATION, hereinafter known as "LICENSEE".

#### BACKGROUND

WHEREAS, Licensor is the owner of a 300' tower ("TOWER") located at Old Rio Grande (Route 47) & Garden State Parkway, Rio Grande, New Jersey, North Latitude: 39° 00' 33" and West Longitude: 74° 52' 13".

WHEREAS, Licensor is the Lessee of a certain parcel of land on which the tower is located, in addition to the space already in use for the tower and Building, owned by Wildwood Canadian Campground, Inc., a Delaware Corporation, pursuant to a Lease Agreement dated November 30th, 1987; and is prepared to lease a requisite additional parcel of land from Wildwood Canadian, a 12' x 25' portion of which Licensor intends to sub-lease to Licensee, pursuant to this Tower License Agreement.

WHEREAS, Licensee, Ellis Thompson, is the holder of an FCC Construction Permit (CP) "to Construct and Operate a Domestic Public Cellular Radio Telecommunications System on Frequency Block A in Atlantic City, New Jersey MSA", and has placed the above-referenced Construction Permit, FCC File No. 14261-CL-P-134-A-86, into an entity known as Ellis Thompson Corporation, a legally valid Corporation doing business in the State of New Jersey.

WHEREAS, Licensee desires to utilize the above-referenced Tower, along with the above-referenced adjacent 12' x 25' parcel of land for construction, installation and operation of a Cellular Mobile Telephone Cell Site to be known as the "Rio Grande Cell".

NOW, THEREFORE, the parties, intending to be legally bound hereby and in consideration of the terms, provisions and covenants herein contained, do agree as follows:

#### DEFINITIONS:

As used in the LICENSE, the following words have the meanings herein specified, unless the context otherwise connotes:

- (a) "COMMENCEMENT DATE" shall mean October 15, 1988.
- (b) "LICENSOR" means the Owner of the Tower, Lighthouse Broadcasting Company.
- (c) "LICENSE" means this instrument, as originally executed or as it may, from time to time, be modified or amended;
- (d) "LICENSE PERIOD" means a period of approximately one hundred & ten (110) consecutive months commencing on the Commencement Date of the Initial Term of this License or any five year renewal period thereof;
- (e) "LICENSEE" means ELLIS THOMPSON CORPORATION, its successors and assigns, as well as the owner at any time of the interest of Licensee under this License;
- (f) "TENANT" means any other user or broadcaster now or hereafter on the Tower and may, where the context so indicates, include the Licensor;

(g) "INTERFERENCE WITH A BROADCASTING ACTIVITY" means (a) a condition existing which constitutes "interference" within the meaning of the provisions of the recommended practices of the Electronics Industry Association ("EIA") as well as the rules and regulations of the Federal Communications Commission ("FCC") then in effect, or (b) there exists a material impairment of the quality of either the sound or picture signals of a broadcasting service area of such activity of any Tenant on the Tower in a material portion of the broadcast service area of such activity as such area is or may be permitted by the FCC at any time during the period of such activity, as compared to that which were obtained prior to Licensee's commencement of or alterations to their operations from the Tower;

(h) "PREMISES" means certain real property including a 300' tower owned by Licensor and a parcel of land and building leased or to be leased by Licensor, a legal description of which is attached hereto as Exhibit "G".

(i) "EQUIPMENT" means the equipment as more specifically detailed on EXHIBIT "A" attached hereto.

(j) "CELL SITE" means a portion of Licensor's Tower, Licensee's Equipment Shelter, sometimes referred to as Licensee's Building or merely Building, and Licensee's Equipment, all of which is sometimes hereinafter referred to as Licensee's Facilities.

#### SECTION 1. USE AND AVAILABILITY OF TOWER

(a) Licensor hereby grants Licensee the right to install the Equipment which is specifically detailed on EXHIBIT "A". The location of such Equipment on the Tower is as specifically set forth on EXHIBIT "B" attached hereto and made a part hereof. At all times Licensee shall be the owner of the personal property detailed on Exhibits A & B, and such property shall not constitute a fixture.

(b) Licensor warrants that tower has the structural integrity to accommodate Licensee's non-microwave antennas and transmission lines at approximately the 270' foot level.

(c) Subject to space availability on the tower, in the event Licensee desires to install microwave or similar "dishes" on the tower, Licensee will be responsible for paying all costs attendant to the following:

(i) A Structural Analysis of the tower by a reputable structural engineer whose credentials are acceptable to Licensor.

(ii) If and as required by above-referenced Analysis, "beefing up" the tower, guy cables and foundations.

#### SECTION 2. EQUIPMENT SHELTER

(a) Subject to requisite Municipal approvals, and Licensor's obtaining additional leased ground from Wildwood Canadian, Licensor hereby grants to Licensee the exclusive use of a designated parcel of land on which to construct Licensee's own Building, not to exceed 12' x 25', or 300 square foot exterior dimensions, plus fencing area to be mutually determined.

(b) Licensee shall have the exclusive right in common only with Licensor to have access to its Facilities including, without limitation, the right at any time to enter the Building to repair, maintain, inspect or replace the Equipment serving the Licensee. However, Licensee must give Licensor prior notice of its intention to install and/or service any of its Equipment on the Tower, and such servicing shall be done only by qualified personnel approved by Licensor, and in possession of requisite insurance certificates. Such approval will not be unreasonably withheld. (See EXHIBIT "F")

It is understood that, other than Licensor and approved personnel of Licensee, access to Licensee's Building will be strictly prohibited. If Township consent can be obtained, Licensor will permit



Licensee, at Licensee's sole expense, to erect security fencing around Licensee's Building. Plans for such fencing to be approved by Licensors. Such approval not to be unreasonably withheld.

(c) Licensors will provide Licensee with sufficient parking facilities at said Premises.

(d) During the term hereof, Licensee shall be solely responsible for the repair and maintenance, both structural and non-structural, of Licensee's Building. Repair shall include replacement. Licensors shall maintain the access roads leading to the Tower and structure(s), and shall keep same free and clear of all debris, weed growth and snow.

### SECTION 3. INTERFERENCE WITH A BROADCASTING ACTIVITY

(a) Licensee shall conduct its broadcasting activities in accordance with all FCC regulations, and sound engineering practices, and shall cooperate to the fullest extent with other tenants and Licensors, so as to anticipate any interference with a broadcasting activity of any and all tenants installed prior to Licensee's Commencement Date. In the event the use of Licensee's Equipment results in interference with the broadcasting activities of any licensee installed prior to Commencement Date of this License, Licensee shall be so notified and shall take immediate steps to correct such interference. Failure of Licensee to do so within thirty (30) days of such notice shall constitute a material breach of this Agreement and Licensee hereby authorizes Licensors to take whatever steps are necessary to prevent or correct such interference in the event of Licensee's failure to promptly do so.

(b) Licensee shall comply with any conditions which the FCC and/or any other governmental authority may impose with respect to the installation and/or operation of Licensee's antennas, transmission lines, transmitters, switching gear, or any other Equipment which Licensee may install on/or adjacent to the Tower and Building pursuant to this Agreement; and shall pay for all legal, engineering and other expenses incident hereto.

(c) Effective with the Commencement Date of this License, Licensors will neither make nor allow changes or installations to be made on the Tower, related facilities, or facilities of other Tenants, which will impair or interfere in any way with Licensee's signal or broadcast operations. In the event such interference to Licensee's signal or operations does occur, Licensors shall be so notified and shall take immediate steps to correct such interference. Failure of Licensors to do so within thirty (30) days of such notice shall constitute a material breach of this Agreement and Licensee shall be entitled to equitable relief upon any breach hereof, including the right to terminate this License without penalty.

Due to the complex nature of Licensee's frequency usage, Licensors agree to give Licensee advance notice of any new frequency proposed to operate from subject tower. If it can be shown that such frequency will cause impairment to Licensee's operations, Licensors will either not license such frequency on subject tower, or will guarantee non-interference. The latter option will be implemented only with prior written approval of Licensee's technical department. Such approval not to be unreasonably withheld or delayed.

(d) Licensee will bear the full cost of resolving all local consumer Radio and Television Interference complaints as may arise from the operations of Licensee's facilities. Licensee will also provide Licensors with procedures to be followed in the event consumer complaints are directed to Licensors on Radio and Television Complaints from private citizens in the area around the Tower.

(e) Licensee shall also bear the cost of purchase and installation of any necessary filter devices as may be necessary to reduce intermodulation products caused by the collocation of Licensee's and pre-installed Tenant's facilities, to at least those levels presently required by FCC regulations. Should future